



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,306	08/24/2001	Thomas Lemmons	INTE.14USU1	2562

27479 7590 06/20/2003

THE LAW OFFICES OF WILLIAM W. COCHRAN, LLC
3555 STANFORD ROAD
SUITE 230
FORT COLLINS, CO 80525

EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,306

Applicant(s)

LEMMONS ET AL.

Examiner

Scott E. Jones

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This office action is in response to the request for reconsideration filed on March 26, 2003 in which applicant responds to the claim rejection and submits an Information Disclosure Statement. Claims 9-16 are pending.

Information Disclosure Statement

2. The reference (Khosla U.S. 6,080,063) supplied by Applicant on IDS, Paper No. 10, has already been made part of the record on PTO-892 of Office Action, Paper No. 7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9-10, 12-14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Khosla (U.S. 6,080,063).

Khosla discloses a method and apparatus for simulating a real-time sports event, wherein participants are those of the live sporting event and remote users over a computer network.

Sensors located at the live sports event gather data about the sporting event, and data is gathered from remote participants over a computer network. These inputs are transmitted to a computer system to provide and display a simulation of the sporting event as it occurs or can be delayed to be played at a later time (Figures 1-6, Column 2, lines 28-62, and Column 3, line 36-Column 9,

Art Unit: 3713

line 31).

The rejection as stated in Office Action, Paper No. 7 is retained and incorporated herein.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla (U.S. 6,080,063).

7. Khosla discloses that as discussed above regarding claims 9-10, 12-14, and 16. Khosla seems to lack explicitly disclosing the game being a football sports simulation (Claims 11 and 15). However, Khosla indicates the game or participatory event (sports) can include, but is not limited to, automobile racing, sailboat racing, motorcycle racing, skiing, bobsledding, and even aerial combat. Therefore, it would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to simulate a football game in Khosla's apparatus for simulating sporting events. One would be motivated to do so because many game players enjoy football because it is a very popular sport and because it has already been simulated in prior video games.

The rejection as stated in Office Action, Paper No. 7 is retained and incorporated herein.

Response to Arguments

8. Applicant's arguments filed March 26, 2003 have been fully considered but they are not persuasive.

9. Applicant alleges Khosla does not disclose “creating and broadcasting a television signal that is based upon the interactive input of the game participants.”

In response to Applicant’s allegation, Khosla clearly discloses this feature. In particular, in column 2, lines 39-50, Khosla discloses, “...This position information is relayed to the computer system where it is used to construct a display of the automobile race showing the real vehicles in their proper location. Commands received from the user interface control a simulated vehicle in the display. By issuing commands through the user interface, a remote participant navigates the simulated vehicle in and out of the real vehicles in the display. In this way, the excitement of a highly interactive video game is combined with the drama and publicity of surrounding a live event.” (*Emphasis Added*). Additionally, Khosla clearly discloses broadcasting a video signal over a broadcast television network to a plurality of viewers in column 6, lines 54-67).

10. Regarding claims 9 and 13, Applicant alleges, Khosla lacks disclosing, “creating a video signal of game play based on said input” and “broadcasting said video signal over a television network to a plurality of viewer’s televisions.” However, the examiner respectfully disagrees. Please see the rationale for the argument provided above in Item No. 9.

11. Furthermore, Applicant alleges, “Khosla does not disclose playing an interactive game wherein the play of the game is broadcast to non-playing viewers.” In response to applicant's argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., the play of the game is broadcast to non-playing viewers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

Art Unit: 3713

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However, even if Applicant had claimed this limitation, Khosla would anticipate the claim. Please see the rationale for the argument provided above in Item No. 9.

12. Therefore, for the reasons discussed hereinabove, the rejections as stated in Office Action, Paper No. 7 are maintained.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael O'Neill, Acting SPE can be reached on (703) 308-1148. The fax phone

Art Unit: 3713

numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SET

sej

June 16, 2003



**MICHAEL O'NEILL
PRIMARY EXAMINER**